

Decision 02-08-021 August 8, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Edward A. Sweeney,

Complainant,

vs.

San Diego Gas & Electric Company,

Defendant.

Paul B. Austin,

Intervenor.

Case 01-12-032  
(Filed December 19, 2001)

Edward A. Sweeney, for himself, Complainant,  
Monica Wiggins, for SDG&E, Defendant.  
Paul B. Austin, for himself, Intervenor.

**OPINION DENYING RELIEF**

On January 8, 2001, complainant contacted San Diego Gas & Electric Company (SDG&E) to request relocation of a power pole in the alley at the rear of his property at 935 G Avenue, Coronado. Complainant planned to build a garage on his property and the existing pole was in conflict with where he wanted to locate his garage and driveway. SDG&E requested a \$964.00 engineering fee to begin design of the relocation of the pole, which complainant paid. SDG&E prepared the design for the relocation and told complainant the cost to him would be \$12,454. Complainant asserts that SDG&E was negligent in

the placement of the present power pole and, therefore, should relocate the pole at its own expense. Because the power pole might be located near his property, Paul B. Austin intervened. Public hearing was held before ALJ Barnett on February 25 and April 15, 2002, and the matter submitted.

The location of the pole is not an issue. All parties agreed to a new location. The two issues are 1) whether SDG&E should pay for the move and 2) if complainant must pay, whether the cost is reasonable.

Complainant testified that the house lots at 935 G Avenue, Coronado were recorded in 1896. He purchased the property at 935 G Avenue in 1977, comprised of lots 28 and 29. The property contained a single residence, including a garage. The power pole in its present location is located approximately 8 feet north of the property line between lots 28 and 29. SDG&E has located its other distribution poles in the 900 Block of G Avenue at the property lines such that they do not interfere with adjacent property. Complainant wants to remove the present dwelling and build townhouses with a garage on each lot, which requires the present driveway to be relocated. The location of SDG&E's power pole has made it impossible to build on his lots in compliance with the City of Coronado Zoning Ordinance which requires his lots to have covered parking with ingress and egress from the alley. The current pole placement interferes with the new design, thus requiring the pole to be moved. He said good engineering practice requires poles be located and installed in compliance with all applicable laws, ordinances, rules, and regulations. SDG&E has reduced the value of his house lots by carelessly locating its pole such that the lots are not suitable for dwellings without relocating the pole. He argues that because SDG&E did not originally place the pole on the property line, it violated the zoning law and should move the pole at its expense.

SDG&E's witness testified that utility records indicate that the original pole was set in 1925 4 feet north of the property line between lots 28 and 29. SDG&E does not know the conditions which may have influenced the decision for placement. In 1967, SDG&E replaced the pole with a new one because the old one was rotten. In accordance with SDG&E's operating practice, the new pole was set 4 feet north of the existing pole location to accommodate the transfer of wires, cross arms, and the replacement of the transformer, as well as to ensure proper General Order 95 clearance of service conductors. Since 1967, no modifications to the pole location have been made.

SDG&E agrees that today it is a standard industry practice of the California electric utilities to locate utility poles near property lines, where possible. SDG&E does not have historical information that indicates the reason for the location of the pole when it was initially set in 1925. SDG&E asserts it would be a violation of SDG&E's tariffs if it did not charge complainant for the relocation. Its Electric Rule 15.I.1, Facility Relocation or Rearrangement, states in part, "In all instances, utility shall, at its option, abandon or remove its existing facilities. Applicant or customer shall be responsible for the costs of all related relocation, rearrangement and removal work." Rule 15.I.1 protects ratepayers from bearing the burden of additional costs for relocation of existing facilities when there is no immediate ratepayer benefit from such relocation.

On the issue of costs, complainant introduced Exhibit 10, to the effect that SDG&E's estimate for moving the utility pole (\$12,454) was too high. Complainant's exhibit estimated the cost at \$5,016. We have reviewed the exhibit and find it unpersuasive. It is neither location specific nor functionally specific.

It is clear that when complainant purchased the property, the location of the utility pole did not interfere with the driveway on the property. It is only because complainant desires to rebuild with a different configuration of

dwelling and driveways that the utility pole must be moved. There is no violation of a city ordinance or utility practice. The move is for the convenience of the complainant and complainant should pay for the move.

At the hearing, in order that the move of the utility pole not be delayed, the parties agreed that if complainant would deposit the cost of the move, \$12,454, with the Commission, SDG&E would move the pole. The parties agreed that should the Commission rule for complainant, the money would be refunded to him; if the Commission ruled for SDG&E, the money would be paid to SDG&E. We will direct the money to be paid to SDG&E, consistent with our holding.

### **Appeal of the Presiding Officer's Decision**

Complainant has appealed from the decision of the Presiding Officer, alleging various factual errors. SDG&E has responded that the factual errors, if any, are minor and do not require a change in result. We have reviewed the record and have made slight clarifications to the Presiding Officer's Decision, none of which change the result. The decision is affirmed.

### **Findings of Fact**

1. SDG&E first placed the power pole behind 935 G Avenue, Coronado in 1925, and replaced it in 1967. Complainant has not shown that SDG&E was negligent in placing the pole.
2. Complainant purchased the property in 1977, well aware of the location of the power pole.
3. Complainant seeks to develop his property and requires the power pole to be moved. The power pole is being moved for his convenience.
4. A reasonable estimate for the move of the power pole is \$12,454.

**Conclusions of Law**

1. Complainant should pay for the move of the power pole, effective immediately.
2. Complainant's appeal of the Presiding Officer's Decision should be denied.

**O R D E R**

**IT IS ORDERED** that:

1. The relief requested by complainant is denied.
2. The \$12,454 on deposit shall be paid to San Diego Gas & Electric Company.
3. Complainant's appeal of the Presiding Officer's Decision is denied.
4. This proceeding is closed.

This order is effective today.

Dated August 8, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
CARL W. WOOD  
MICHAEL R. PEEVEY  
Commissioners

Commissioner Geoffrey F. Brown, being  
necessarily absent, did not participate.